

The Gazette of India

PUBLISHED BY AUTHORITY

No. 12] NEW DELHI, SATURDAY, MARCH 21, 1953

NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 14th March 1953 :—

Issue No.	No. and date	Issued by	Subject
61	S. R. O. 507, dated the 7th March 1953.	Election Commission, India.	Election Petition No. 94 of 1952.
62	S. R. O. 508, dated the 9th March 1953.	Ditto.	Election Case No. 2 of 1952.
	S. R. O. 509, dated the 9th March 1953.	Ditto.	Election Petition No. 108 of 1952.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

PART II—Section 3

Statutory Rules and Orders issued by the Ministries of the Government of India (other than the Ministry of Defence) and Central Authorities (other than the Chief Commissioners).

MINISTRY OF LAW

New Delhi, the 13th March 1953

S.R.O. 512.—In exercise of the powers conferred by clause (1) of article 299 of the Constitution, the President hereby directs that all agreements relating to the payment of compensation for lands requisitioned or acquired in Calcutta by or on behalf of the Central Government, in accordance with the provisions of the Requisitioning and Acquisition of Immovable Property Act, 1952 (XXX of 1952), shall be executed on his behalf by the First Land Acquisition Collector, Calcutta.

[No. F.27-II/53-L.]

SHRI GOPAL SINGH, Dy. Secy.

New Delhi, the 17th March 1953

S.R.O. 513.—In exercise of the powers conferred by clause (5) of article 324 of the Constitution, the President is pleased to make the following rules for regulating the conditions of service of Shri K. V. K. Sundaram, I.C.S., officiating Chief Election Commissioner:—

1. The said officiating Chief Election Commissioner shall hold office during the absence on deputation of Shri S. Sen, I.C.S., out of India.
2. The said officiating Chief Election Commissioner shall be paid a salary of four thousand rupees per month.
3. The conditions of service of the said officiating Chief Election Commissioner as respects leave of absence, leave salary, travelling allowance and all other matters shall be regulated by the same rules as are applicable to a Secretary to the Government of India who is a member of the Indian Civil Service.

[No. F.17(1)/53-GA.]

K. Y. BHANDARKAR, Secy.

MINISTRY OF STATES

New Delhi, the 11th December 1951

S.R.O. 514.—In exercise of the powers conferred by section 2 of the Part C States (Laws) Act, 1950 (XXX of 1950), the Central Government hereby directs that the following further modifications shall be made in the Assam Sales Tax Act, 1947 (Assam Act XVII of 1947), as extended to the State of Manipur under the notification of Government of India in the Ministry of States No. S.R.O. 1038, dated the 3rd July, 1951:—

1. In sub-section (1) of section 31, the words "to assist the Taxation Officer" shall be omitted.
2. In section 32, for the words "Taxation Officer" wherever they occur, the words "prescribed authority" shall be substituted.
3. In Schedule II, the word "cigarettes" occurring against Serial No. 2 shall be omitted.
4. In Schedule III, Serial Nos. 31 and 32 shall be omitted.

[No. 267-Econ.]

S. NARAYANSWAMY, Dy. Secy.

MINISTRY OF FINANCE

(Department of Economic Affairs)

New Delhi, the 11th March 1953

S.R.O. 515.—It is hereby notified for general information that in exercise of the powers conferred by clause (iv) of sub-section (1) of section 28 of the Imperial Bank of India Act, 1920 (XLVII of 1920), the Central Government has renominated Shri A. D. Gorwala, 40C, Ridge Road, Malabar Hill, Bombay, not being an Officer of the Government, to be a Director of the Imperial Bank of India for a period of one year with effect from the 10th February, 1953.

[No D.1492-FI/53.]

S.R.O. 516.—In exercise of the powers conferred by section 53 of the Banking Companies Act, 1949 (X of 1949), and on the recommendation of the Reserve Bank of India, the Central Government hereby declares that in the case of the under-noted banking companies, the provisions of section 11 of the said Act shall not apply for a period of one year from the 16th March, 1953:—

1. Engandiyoor Banking and Vyapara Co. Ltd.
2. Indian Relief Bank Ltd.
3. Tirukkattupalli Bank Ltd.
4. Vasudeva Vilasam Bank Ltd.
5. Purnea Banking Corporation Ltd.

6. Bantia Bank Ltd.
7. New Citizen Bank of India Ltd.
8. Prabartak Bank Ltd.
9. Prabhakara Bank Ltd.
10. Cochin Commercial Bank Ltd.
11. Oriental Bank of Commerce Ltd.
12. National Trust Bank Ltd.
13. Bank of Konkan Ltd.
14. Cochin Union Bank Ltd.
15. Morvi Mercantile Bank Ltd.
16. Ambat Bank Ltd.

[No. 4(183)-F.I/52.]

N. C. SEN GUPTA Dy. Secy.

New Delhi, the 14th March 1953

S.R.O. 517.—In exercise of the powers conferred by the proviso to article 309 read with articles 313 and 372 of the Constitution and paragraph 19 of the Adaptation of Laws Order, 1950, the President hereby directs that the following further amendment shall be made in the Fundamental Rules, namely:—

After clause (b) of rule 53 of the said rules the following clause shall be inserted, namely:—

(c) In the case of a member of the Indian Civil Service or a Military Commissioned officer subject to the civil leave rules, the provisions of clause (b) shall, however, not apply if the result thereof will be to allow him a lesser amount as subsistence allowance than that to which he would be entitled under rule 43.

This amendment shall take effect from the 18th October, 1946.

[No. 19(3)E.IV/47.]

H. F. B. PAIS, Dy. Secy.

MINISTRY OF FINANCE (REVENUE DIVISION)

CUSTOMS

New Delhi, the 21st March 1953

S.R.O. 518.—In exercise of the powers conferred by section 6 of the Sea Customs Act, 1878 (VIII of 1878), the Central Government hereby directs that the following amendment shall be made in the notification of the Government of India in the Ministry of Finance (Revenue Division) No. 28-Customs, dated the 16th February, 1952, namely:—

In the said notification for Entry No. 5, the following entries shall be substituted, namely:—

- "5. all Inspectors of Central Excise including those employed in Preventive Intelligence;
6. all Supervisors of Central Excise;
7. all Sepoys of Central Excise."

[No. 16.]

A. K. MUKARJI, Dy. Secy.

CENTRAL BOARD OF REVENUE

INCOME TAX

New Delhi, the 14th March 1953

S.R.O. 519.—The following draft of certain further amendments in the Indian Income-tax Rules, 1922, which the Central Board of Revenue proposes to make

in exercise of the powers conferred by sub-section (1) of section 59 of the Indian Income-tax Act, 1922 (XI of 1922), is published as required by sub-section (4) of the said section, for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration on or after the 2nd April, 1953.

2. Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the said Board.

Draft Amendment

In the form of Notice prescribed by rule 18A of the said Rules, for the second and the fourth paragraphs the following paragraphs shall be substituted respectively, namely:—

"Section D of the prescribed form is meant for showing particulars of any income which the assessee considers to be not liable to tax for any reason whatsoever. If this is done, the income so disclosed would not be considered to have been concealed even if in the assessment it is held to be liable to tax".

"Every such person is further advised to ensure compliance with this notice since any failure without reasonable cause to furnish the return required by this notice, or failure without reasonable cause to furnish it within the time allowed or in the manner required will entail a penalty not exceeding one and half times the tax payable."

[No. 21.]

S. P. LAHIRI, Secy.

MINISTRY OF COMMERCE AND INDUSTRY

New Delhi, the 21st March 1953

S.R.O. 520.—In exercise of the powers conferred by sub-clause (i) of Clause 5 of the Cotton Textiles (Export Control) Order, 1949, the Central Government hereby directs that the following further amendment shall be made in the Notification of the Government of India in the late Ministry of Commerce No. 67-CW(25A)/48, dated the 26th March, 1949, namely:—

In the said Notification, in paragraph 6, after item (z) the following shall be added, namely:—

"(z-1) Cloth or yarn exported or intended for export to Nepal, otherwise than against a valid export licence".

[No. 46(34)-CT(A)/52-9.]

S. A. TECKCHANDANI, Under Secy.

ORDER

New Delhi, the 14th March 1953

S.R.O. 521.—In exercise of the powers conferred by section 4 of the Supply and Prices of Goods Act, 1950 (LXX of 1950), the Central Government hereby directs that the following further amendment shall be made in the Schedule to the notification of the Government of India in the late Ministry of Industry and Supply No. S.R.O. 500, dated the 2nd September, 1950.

For the entries in the Schedule relating to the maximum prices of Glaxo and Ostermilk, the following entries shall be substituted namely:—

Glaxo	1 lb.	Rs. 3 15 0 per tin
Glaxo	2 lb.	Rs. 7 9 0 per tin
Ostermilk	1 lb.	Rs. 4 0 0 per tin
Ostermilk	2 lb.	Rs. 7 10 0 per tin."

[No. PC-4(1)/50-Pt.II.]

B. B. SAKSENA, Dy. Secy.

ORDERS

New Delhi, the 17th March 1953

S.R.O. 522.—In exercise of the powers conferred by section 4 of the Supply and Prices of Goods Act, 1950 (LXX of 1950), and in partial modification of the notification of the Government of India in the late Ministry of Industry and Supply No. S.R.O. 503, dated the 2nd September 1950, in so far as it relates to the fixation of maximum price of soda ash, the Central Government hereby fixes the following Schedule of maximum price in respect of 2952 cwt. of Soda Ash (light), imported from Yugoslavia per s. s. "BARENFELS", during the month of September 1952, by Messrs. Eastern Import and Export Co., Jan Mansion, Sir Phiroosshah Mehta Road, Post Box No. 1902, Fort, Bombay.

SCHEDULE

(1)	(2)	(3)	(4)	(5)
Variety of Soda Ash	Maximum price that may be charged by the importer	Maximum price that may be charged by a distributor	Maximum price that may be charged by a wholesale dealer	Maximum price that may be charged by a retail dealer
Soda Ash (light)	Rs. 19-13-3 per cwt. Ex-godown/f.o.r. Bombay.	The price specified in col. 2 PLUS (a) actual railway freight by goods train or actual transport charges by sea from Bombay to the place of destination, and (b) handling charges not exceeding annas eight per cwt.	The price specified in Column 3 PLUS a margin not exceeding annas eight per cwt.	The price specified in Column 4 PLUS a margin not exceeding Rs. 1-12-0 per cwt.

NOTE.—These prices are exclusive of local taxes such as Sales Tax, Octroi and other local taxes which may be charged extra.

[No. 9-PC(8)/53.]

S.R.O. 523.—In exercise of the powers conferred by section 4 of the Supply and Prices of Goods Act, 1950 (LXX of 1950), and in partial modification of the notification of the Government of India in the late Ministry of Industry and Supply No. S.R.O. 503, dated the 2nd September 1950, in so far as it relates to the fixation of maximum price of caustic soda, the Central Government hereby fixes the maximum price as shown in the Schedule annexed hereto in respect of 400 cwt. (gross) of caustic soda (Solid) imported from Germany per s. s. "Indian Endeavour" during the month of November 1952 by Messrs. Chemidye Trading Company Ltd., Kamer Building, Cawasji Patel Street, Fort, Bombay.

SCHEDULE

(1)	(2)	(3)	(4)	(5)
Variety of Caus- tic Soda	Maximum price that may be charged by the importer	Maximum price that may be charged by a distributor	Maximum price that may be charged by a wholesale dealer	Maximum price that may be charged by a retail dealer
Caustic Soda. (Solid)	Rs. 32-9-0 per cwt. Ex- godown/f.o.r. Bombay.	The price specified in Column 2 PLUS (a) actual railway freight by goods train or actual transport charges by sea from Bom- bay to the place of destination, and (b) handling char- ges not exceeding annas eight per cwt.	The price spe- cified in Column 3 PLUS a margin not exceeding annas eight per cwt.	The price spe- cified in Column 4 PLUS a margin not exceeding Rs. 1-12-0 per cwt.

NOTE.—These prices are exclusive of local taxes such as Sales Tax, Octroi and other local taxes which may be charged extra.

[No. 7(25)-PC/52.]

S. KRISHNASWAMI, Under Secy.

MINISTRY 'OF REHABILITATION

ORDER

New Delhi, the 21st February 1953

S.R.O. 524.—In exercise of the power conferred by sub-section (1) of section 19 of the Evacuee Interest (Separation) Act, 1951 (LXIV of 1951), the Central Government hereby orders that all cases in respect of composite properties situated in the districts mentioned in column 1 of the Schedule hereto annexed and pending before Shri Om Parkash, Competent Officer, Patiala, shall stand transferred to Competent Officer mentioned in the corresponding entry in column 2 of the said Schedule.

SCHEDULE

Districts	Name of Competent Officer to whom cases are transferred
(1)	(2)
Kapurthala.	Shri Jamman Singh, Competent Officer, with headquarters at Kapurthala.
Barnala & Bhatinda	Shri Hazura Singh, Competent Officer, with headquarters at Bhatinda.
Bassi & Kandaghat.	Shri Harish Chander Gaur, Competent Officer, with headquarters at Bassi.

[No. 52(5)/53-Prop.]

MANMOHAN KISHAN, Asstt. Secy.

MINISTRY OF COMMUNICATIONS

(Posts & Telegraphs)

New Delhi, the 12th February 1953

S.R.O. 525.—In exercise of the powers conferred by the Indian Post Office Act, 1898 (VI of 1898), the Central Government hereby directs that the following further amendments shall be made in the Indian Post Office Rules, 1933, namely:—

In rule 55 of the said rules, for the words "Letters, postcards and packets" the words "Letters, Postcards, Packets and Parcels" shall be substituted.

[No. DA.93-13/52.]

New Delhi, the 14th March 1953

S.R.O. 526.—In pursuance of clause (c) of rule 14-A of the Indian Post Office Rules, 1933, the Central Government hereby rescind with effect from the 1st April, 1953, the Notification of the Government of India in the Ministry of Communications (Posts and Telegraphs) No. R-1-4/51, dated the 31st March, 1951.

[No. D36-44/51.]

K. V. VENKATACHALAM, Dy. Secy.

MINISTRY OF TRANSPORT**PORTS***New Delhi, the 14th March 1953*

S.R.O. 527.—In exercise of the powers conferred by sub-section (3) of section 3 of the Indian Ports Act, 1908 (XV of 1908), the Central Government hereby authorise Shri G. Lajmi, a temporary pilot of the Bombay Port Trust, to pilot vessels in the Port of Bombay.

[No. 8-PI(67)/53.]

R. S. BAHL, Under Secy.

New Delhi, the 16th March 1953

S.R.O. 528.—In exercise of the powers conferred by sub-section (1) of section 6 of the Indian Ports Act, 1908 (XV of 1908), the Central Government hereby makes the following rules for the regulation and management of the minor ports of Mundra, Mandvi, Koteswar, Lakhpat and Jakhau in the State of Kutch, the same having been previously published as required by sub-section (2) of the said section, namely:—

RULES*Rules for the regulation and management of the Minor Ports of Kutch.***I. PRELIMINARY.—**

1. *Short Title.*—(1) These rules may be called the MINOR PORTS OF KUTCH (Regulation and Management) RULES, 1953.

(2) They shall apply within the limits of the minor ports of Mundra, Mandvi, Jakhau, Lakhpat and Koteswar only.

2. *Definitions.*—In these rules, unless the context otherwise requires—

- (a) Conservator means the Officer appointed by the Central Government, as the Conservator of the Port.
- (b) Assistant Conservator means the Officer appointed by the Chief Commissioner to hold charge, under the supervision of the Conservator, of the berthing, Piloting and mooring of all vessels or country crafts within the limits of the Ports.
- (c) "General Guarantee" means a guarantee in the form printed as Appendix "B" to these Rules.
- (d) "Goods" includes wares and merchandise of every description, including live stock.
- (e) "Master" in relation to any vessel or country craft means any person (except a Pilot or Harbour Master) having, for the time being, the command or charge of such vessel or country craft.

- (f) "Owner" when used in relation to goods, includes any consignor, consignee, shipper or agent for the sale or custody thereof, and when used in relation to any vessel or country craft, includes any part owner, charterer, consignee, or mortgagee or agent in charge thereof.
- (g) "Petroleum in bulk" means petroleum in quantities exceeding 200 gallons contained in any one receptacle.
- (h) "Port" means any of the minor ports of Mundra, Mandvi, Jakhau, Lakhpat and Koteswar in the State of Kutch as defined in the notification of the Government of India in the Ministry of Transport No. 20-M(1)/50-I, dated the 4th July, 1950.
- (i) "Port Authority" means the officer appointed from time to time by the Chief Commissioner to hold charge of the Minor Ports Administration.
- (j) "Premises" include all properties of any of the Minor Ports of Mundra, Mandvi, Jakhau, Koteswar and Lakhpat, as the case may be, used in connection with the handling, accommodation and storage of goods.
- (k) "Vehicle" includes any wheeled contrivance, propelled mechanically or otherwise and used for the conveyance by road of human beings or goods or property.

3. *Other Laws not affected.*—Nothing contained in these rules shall be so construed as to affect the due operation of any enactment for the time being in force or any rules made thereunder.

4. *Orders etc. of the Assistant Conservator to be carried out.*—Masters and Owners of vessels or crafts shall obey all directions of the Assistant Conservator in relation to the rotation and manner of approaching the Port Entrances and of coming into or going out of the Port.

5. *Application for leaving the Port.*—A written application shall be made to the Assistant Conservator by the Master or Owner or Agent of any vessel or country craft intending to leave the Port. Such application shall state the name of the vessel or country craft, where bound and its Draught and shall be made at least six hours before the intended time of leaving the port.

6. *Responsibility of Master.*—While a sea-going vessel or craft is in the Port, the Master shall arrange for the constant presence of a responsible Officer on board to ensure the observance of all rules and the discharge of all duties connected with the vessel or craft or their cargo and to take every precaution against accident to life or limb or damage to property and in particular—

- (a) To make his vessel or craft securely fast to the bollards and other appliances provided for the purpose.
- (b) To keep the vessel or craft so loaded or ballasted that she can be safely moved in the event of fire or other emergencies.
- (c) To provide proper light in those parts of the vessel or country craft where work is going on or where, owing to insufficient light injury to person or damage to property might result.
- (d) To fix and keep securely fixed the gangway supplied by the Port during the whole time the vessel or country craft remains alongside the jetty or wharf-wall.
- (e) To hang between sun set and sun rise at least one efficient lantern at each end of the gangway.

7. *Vessels or country crafts to be in charge of competent persons.*—During such time as a vessel or a country craft remains in Port the Master or the Owner or other responsible officer shall always be on board with sufficient crew to superintend and direct the carrying out of all duties in connection with the vessel or country craft or the loading or unloading of their cargo.

8. *Watchman to be kept on deck.*—While in the Port a vessel or a country craft shall always maintain a Quartermaster or Watchman on duty on deck who shall be stationed in charge of the vessels or country craft's shore gangway, and who shall attend:—

- (i) To the mooring ropes and lines of the vessel, and shall cause their adjustment from time to time as necessary on the rise or fall of the water.
- (ii) To the prevention of unauthorised person boarding the vessels. In default, the Master or Owner of the vessel shall be liable and responsible for any resultant damage.

9. *Use of inflammable materials on board vessel or country craft.*—Pitch, resin, tallow or other inflammable materials shall not, on any account, be melted on board any vessel or country craft in the Port or on the jetty, except in such manner, and in such places, as shall be appointed by the Assistant Conservator nor shall any pitch, tar, oil flax, okum, straw, shavings or other inflammable or combustible article be allowed to remain on the deck of any vessel or country craft or on the jetties, wharves or open areas in the Port, other than those prescribed for the purpose.

10. *Masters etc. of vessels or country crafts responsible for damage.*—Masters and owners of vessels or country crafts shall be held liable for any damage whatever that shall have been caused by their vessels or country crafts or servants to any of the work or property of the Port and the Port reserves the right to detain their vessels or country crafts in the Port until security has been given for the amount of damage caused.

11. *Vessels or country crafts etc. in Port at risk of Master.*—All vessels or country crafts within the Port lie at the risk of their masters or owners who shall be held responsible for any loss or damage that may arise in consequence of their faulty navigation or by reason of their breaking adrift from their anchors or moorings.

12. *Master's responsibility for acts of crew etc.*—Masters and owners of vessels or country crafts shall be held liable and responsible for the acts of the crew and of any person or persons employed about or on board their vessels or country crafts.

13. *Port accepts no responsibility for delay etc.*—The Port accepts no liability or responsibility in respect of any detention of or delay to vessels or country crafts, entering, remaining in or going out of the Port or in the progress of vessels or country crafts to or from the Port or for the detention or delay in the discharge of the cargoes from vessels or country crafts or for delay in loading of goods, for stoppage in the delivery of goods for any reason whatsoever.

14. *Notice regarding outbreak of Fires on vessels or on country crafts to be given by Masters etc.*—In the event of any fire occurring on board a vessel or country craft in the Port the Master or the owner or the agent shall give immediate notice thereof to the Assistant Conservator. Such notice shall be given in writing in the case of every fire, whether the fire occurs in cargo or in bunkers, and shall give details of measures which are taken, or are being taken, to control and extinguish it.

15. *Use and disposal of equipment.*—No stage, plank or other article provided by the Port for the loading and or discharging of sea going vessels or country crafts shall be used without an order from the Assistant Conservator. All stages, planks and other articles provided by the Port shall, when loading or discharging is completed, be replaced on the jetties and wharf wall by the vessel or country craft using them, alongside it. All stages, planks and other articles not provided by the Port shall, when loading or discharging is completed, be removed by the vessel or country craft from the Port within 24 hours of the time of completion of that work.

Regulation in respect of wharves and sheds of the loading and unloading of vessels or country crafts and of the receipt, delivery and shipment of goods.

16. *Permission to work vessel or country craft.*—Except with the permission of the Assistant Conservator no goods shall be landed from or shipped in, any vessel or country craft within the Port.

17. *Work in Port under Assistant Conservator.*—The loading and unloading vessels or country crafts in the Port shall be subject to the control of the Assistant Conservator.

18. *Breaking bulk.*—In the case of vessel or country craft bringing import cargo, the master or agent shall deposit a true copy of the general manifest with the Assistant Conservator before breaking bulk, and the master or tindal, or agent or owner shall immediately notify any or all subsequent amendments to the Assistant Conservator.

19. *Supply of labour by Agent for working goods in Port.*—The agent of the vessel or country craft shall provide the necessary labour for handling import or export goods and goods for transshipment in the Port.

20. *Issue of licenses to stevedores.*—The Port authority shall, from year to year issue licenses to approved Firms or Individuals for performing the work of stevedoring vessels or country crafts in the Port and for handling cargo on the

shore. The Port Authority shall be competent to revoke a license without assigning any reasons. No stevedore or landing contractor shall be allowed to work on board any vessel or country craft in the Port or on shore unless he holds a license for the purpose. Such license shall only be issued when the Port Authority is satisfied by inspection that the Firms or individuals applying for license have sufficient and proper gear and appliances.

21. *Discharging or loading of a vessel or country craft to be under the supervision of the Master or Stevedore.*—Cargo shall not be discharged from or shipped into any vessel working in stream or country craft in the Port except under the direct supervision of the master or owner of the vessel or of the country craft or of a stevedore licensed by the Port Authority to perform such work in the Port. Such master or owner or stevedore shall be personally responsible or liable for any loss or damage arising from the careless or improper slinging of goods and shall in every instance observe the following precautions:—

- (i) That sling is laid down flat without turn or kinks before any goods are loading therein.
- (ii) That after the sling has been made up and with the first strain on heaving up the running loop is well beaten home with a wooden bar in order that the grip may be made secure.

22. *Supply of gear.*—The vessel or country craft shall supply suitable gear of good quality and sufficient capacity to allow a reasonable margin of safety when dealing with the cargo for which it is used. The Assistant Conservator or any person working under him may prohibit the use of any gear which in his opinion is in any way defective or unsuitable for the cargo for which it is to be used.

23. *Receiving, sorting and stacking of Import Cargo.*—The Assistant Conservator shall allot an area to the Steamer Agents for the stacking of the import cargo and it shall be the responsibility of the agent of the vessel or country craft to receive charge of imported goods landed from the vessel or country craft and undertake their proper stacking and shall hold such goods for delivery to the proper owner.

24. *Removal of the goods from Jetties and Wharf Wall.*—Removal of goods unloaded from a vessel or country craft in the Port shall be made immediately after their landing to the stacking area. Under no circumstances shall goods be permitted to remain on the Jetty or wharf wall and shall be removed by the agent of the vessel or country craft within 12 hours from the time of completion of discharge of the vessel or craft.

25. *Delivery of goods.*—To obtain delivery of goods persons taking delivery shall—

- (a) Present to the Assistant Conservator the Import Wharfage Entry Form (Appendix A-1) in triplicate, duly filled in, for assessment and payment of Wharfage and other charges together with the completed Customs Bill of Entry.
- (b) Hand over to the agent of vessel or country craft the original copy of the Port Wharfage Entry duly receipted.
- (c) Agent of the vessels or country crafts on being satisfied that all port dues have been paid and on being furnished with an acknowledgement for the goods, shall grant delivery of the goods to the Consignee or his agent.

26. *Custody of goods and responsibility thereof.*—The goods although lying in the premises provided by the Port remain at the risk and responsibility of the Steamer and Country craft agents in the case of ships or country craft and the clearing agent in the case of goods landed from country crafts.

27. *Receiving and stacking of the Export goods.*—No cargo shall be brought for shipment and stacked on the premises of the Port without previous permission of the Assistant Conservator. Such permission shall only be granted on the definite understanding that the cargo shall lie within the premises of the port at the risk and responsibility of the owner.

28. Shippers must present to the Assistant Conservator's Office the Port Export Challan (Appendix A.2) or Transshipment challan (Appendix A-3) in triplicate for assessment and payment of wharfage and other charges together with the completed Customs Export Shipping Bill.

29. Goods brought for shipment must be stacked in a place set aside for such goods and shall be stacked in accordance with the directions of the Assistant Conservator.

30. *Shipment of goods.*—Goods for shipment shall not be permitted to be loaded on board any vessel or country craft in the Port by the master of the vessel or the tindal of the Country Craft until he is satisfied that all the Port dues have been paid.

31. The agents of a vessel or the tindal of a country craft shall hand over a copy of the Export Manifest to the Assistant Conservator immediately on completion of loading of the craft.

32. *Clearance Certificates.*—No Port Clearance shall be granted to any vessel or country craft until her owner or master or some other person has paid or secured to the Port Authority the amount of all port dues, fees and other charges, and all fines, penalties and expenses for which her owner or master is liable.

MISCELLANEOUS

33. *Wharfs, Jetties and Port Area.*—The wharfs, jetties, sheds and the Land within the port area shall be under the charge of the Assistant Conservator who shall be responsible for their management.

34. *Operation under the control of Assistant Conservator.*—All operations connected with the landing or shipment of goods and with their storage in sheds or open shall be under the direct control of the Assistant Conservator. He shall have full control of goods lying within the port area and shall exclude improper characters, idlers and persons having no specific business occupation within the port limits and shall take whatever steps he may deem desirable for the proper maintenance of order within the port area.

35. *Working Hours.*—Working hours in the port shall be as follows:—

(a) Day: 8 A.M. to 12 NOON, 1 P.M. to 5 P.M.

(b) Night: 7 P.M. to 3 A.M.

Clearance of import cargo shall be permitted only between the hours of 9 A.M. to 4 P.M. except on special occasions permitted by the Assistant Conservator.

Holidays.—The sanctioned holidays recognised by the port shall be Sunday, and any special occasions sanctioned by the Port Authority from time to time.

36. *Work during recess hours.*—During the recess hours work shall only be permitted on application to and at the discretion of the Assistant Conservator on payment of fees prescribed in the schedule of charges, provided always that in cases where permission has been granted to continue working during the interval between day and night work and *vice versa*, night work shall be considered to have commenced at the expiration of day work and to have terminated on the commencement of the next day's work.

37. *Night and holiday work.*—Application to work at night or on Sundays, or on holidays shall be made to the Assistant Conservator, who shall on production of the necessary permission from the Customs Department, make necessary arrangements for the proper conduct of business, subject to payment at such rate as may, from time to time be prescribed in the schedule of charges. Applications for work on Sundays or closed holidays shall be made by 12 noon on the day previous to the Sunday or the closed holiday. Application for night work shall be accepted only upto 1 P.M.

38. *Refund of charges.*—No claim for refund of any toll, due, rent or charges shall be entertained unless the same is preferred in writing within six months from the date when such toll, due, rent, rate or charges were paid, unless it arises from an error on the part of an employee of the port.

39. *Issue of licences to Carpenters.*—No person shall work as a carpenter on port premises or shall take carpenters' tools or other instruments and appliances used for opening and repairing cases, without a licence granted to him by the Assistant Conservator.

40. *Issue of licences to Hawkers.*—No person shall take on to the premises of or on board any vessel or country craft any goods with the object of selling the same without a licence from the Assistant Conservator. The Assistant Conservator may issue licences to approved persons, which shall be renewable every year, provided such persons shall have first obtained the approval in writing, from the Collector of Customs, provided that the possession of such a license shall not entitle the holder to go on board a vessel or country craft without the permission of the master, owner or agent of the vessel or country craft.

41. *Porters' licenses.*—Passengers' baggage shall be allowed to be landed at or shipped from the wharves by the passengers personally or by porters licensed by the Assistant Conservator for the purpose.

42. *Licences to be carried.*—The licenced porters shall carry their licences on their persons and shall produce the same for inspection whenever called upon to do so. List of authorised charges shall be shown on the back of each Porter's licence. Licences shall be renewable yearly and may be withdrawn at any time by the Assistant Conservator at his discretion. In the event of any withdrawal of license by the Assistant Conservator no compensation of any kind or refund of any fee levied for the purpose shall be payable.

43. *Speed of vehicles.*—Any vehicles moving within the Port shall do so at speed not exceeding 5 miles per hour.

44. *Smoking etc.*—Smoking and the use of any unprotected fire or light in any shed or warehouse or wharves or jetties is strictly prohibited.

45. *Obstructing Port Officers on duty.*—No person shall molest, assault, resist, hinder, obstruct, impede or interrupt or offer or attempt to molest, assault, resist, hinder, obstruct, impede or interrupt any employee of the port in the execution of his duty or disobey his lawful order or use abusive or offensive language or aid or incite anyone to do so.

APPENDIX A-1.

IMPORT

WHARFAGE ENTRY

To

The Assistant Conservator,

.....Port, Kutch.

Sir,

Please permit to be landed at the.....the following goods imported by the S. S. or C. G.....from.....

Under Customs.....

Entry No.....dated.....195 .

.....195 .

No.	Marks & description of goods	Measurement, weight or quantity	WHARFAGE FEES		
			Rate	Per	Amount
1	2	3	4	5	6

Assessor No.....Dated.....195 .

Examiner

Weighing-man..... I do declare that the contents of this bill of Entry

Registered clerk..... are truly stated.

Cashier

Supervisor (in case of an amount of Rs. 500 & over).

APPENDIX A-2

EXPORT
SHIPPING BILL 1886

To

The Assistant Conservator,
.....Port, KUTCH.

Sir,

Please permit to be shipped from S. S. or C. C.
the following goods for.....on board the.....
under Customs Entry No.....Dated.....195
.....195

No.	Marks & description of goods	Measurement, weight or quantity	Wharfage fees		
			Rate	Per	Amount
1	2	3	4	5	6

Assessor No.Dated.....195

Examiner

Weighing-man..... I do declare that the contents of this ship-
Registered Clerk.....ping Bill are truly stated.

Cashier

Supervisor (in case of an amount of Rs. 500/- and over).

APPENDIX A-3

TRANSHIPMENT ENTRY

To

The Assistant Conservator,
.....Port, KUTCH.

Sir,

Please permit to be transhipped from the.....
to the....., the following goods under.....
Customs Transhipment permit No.....dated.....195
Kutch.....195

No.	Marks & description of goods	Measurement, weight or quantity	Wharfage Fees		
			Rate	Per	Amount
1	2	3	4	5	6

Assessor No.....dated.....19

Examiner We do declare that the contents of this
transhipment Entry are truly stated.

Weighing-man.....

Registered Clerk.....

Cashier.....

Supervisor (in case of an amount of Rs. 500/- and over.)

APPENDIX "B"

FORM OF GENERAL GUARANTEE.

To

The Port Authority,

.....(Name of Port),

KUTCH.

We.....being Owners/Agents of the Owners of the S.S. /
 Line of Steamship known as do hereby declare and warrant that in terms of the
 bunkering contract(s) for the said S.S. /Line of Steamship the Oil Suppliers
 have been are bound to supply to the said S.S. /Line of Steamship fuel oil
 of all of which the flash point is in all cases at or above 150° Fahrenheit and that no
 fuel oil except that supplied under the above contract(s) has been utilised for
 bunkering the said Ship /Line of Ships.

This guarantee is a general guarantee and shall continue in force until ex-
 pressly revoked by us in writing.

Dated this

day of

19 .

[No. 20-M(1)50-II.]

PORTS

S.R.O. 529.—In exercise of the powers conferred by sub-section (1) of section 6
 of the Indian Ports Act, 1908 (XV of 1908), the Central Government hereby makes
 the following rules for the minor ports of Mundra, Mandvi, Koteswar, Lakhpat
 and Jakhau in the State of Kutch, the same having been previously published as
 required by sub-section (2) of the said section, namely:—

RULES

PORT RULES FOR THE MINOR PORTS OF KUTCH

Part I.—Preliminary

1. *Short title.*—(1) These rules may be called the Port Rules for the minor
 ports of Kutch, 1953.

(2) They shall apply within the limits of the minor ports of Mundra, Mandvi,
 Jakhau, Lakhpat and Koteswar only.

2. *Definitions.*—In these rules, unless the context otherwise requires—

(a) 'Assistant Conservator' means the officer appointed by the Chief Com-
 missioner for Kutch to hold charge under the supervision of the
 Conservator of the berthing, piloting and mooring of all vessels
 within the limits of the Ports.

(b) 'boat' means every kind of small craft not mechanically propelled.

(c) 'Cargo boat' means any boat which ordinarily carries all kinds of
 movable or personal property including animals.

(d) 'Day break' means half an hour before sunrise.

(e) 'dark' means half an hour after sunset.

(f) 'Conservator' means the Officer appointed by the Central Government
 as the Conservator of the Port.

(g) 'ferry steamer' means every description of inland steam vessel which
 regularly plies on a fixed route within or partly within and partly
 without the port.

(h) 'flat' means a decked-in-boat which can ply only in tow.

(i) 'Master' when used in relation to any vessel, means any person (except
 a pilot or Assistant Conservator) having for the time being the
 charge or control of the vessel.

(j) 'passenger boat' means any boat which ordinarily carries other persons
 in addition to the crew.

(k) 'Port' means any of the minor ports of Mundra, Mandvi, Jakhau, Lakhpat
 and Koteswar in the State of Kutch as defined in the Notification
 of the Government of India in the Ministry of Transport port
 No. 20-M(1)/50-I, dated the 4th July, 1950.

(l) 'sea-going vessel' means every description of vessel used in sea navigation
 or notified as sea going by the competent authority.

(m) 'small crafts' means every description of vessel not being a sea going vessel or an inland steam vessel, which is used for the conveyance by water of human beings or of property.

(n) 'Steam vessel' means every description of vessel propelled wholly or in part by the agency of steam or other mechanical means.

3. *Other laws not affected.*—Nothing contained in these rules shall be so construed as to affect the due operation of any enactment for the time being in force or any rules made thereunder.

4. *Vessels to keep clear of vessels entering Port.*—All vessels shall keep clear of vessels about to enter or leave the port.

All vessels leaving port shall keep clear of vessels entering the port unless hampered by draft when the ordinary practice of seamen is adopted.

Vessels under way shall have both bower anchors and cables clear and ready for use if required.

5. *Berths, station or anchorage in Port.*—All vessels within the Port shall be bound to take up such anchorage as may be appointed for them by the Assistant Conservator and shall change their berths when required by that authority.

6. *Protection of Hatchways.*—Vessels when not working cargo at night shall have all open hatchways protected by stout netting.

7. *Keeping free passages.*—Free passages shall be kept to all jetties, landing places, mooring and other works, and all vessels and boats shall be bound to move, when required to clear such passages.

8. *Clear space in front of landing places.*—A clear space, at least 30 yards in width shall be preserved in front of all landing places.

9. *Projection of Rafts.*—Rafts of timber made fast to vessels shall not be allowed to extend more than one hundred feet from the stern, or more than fifty feet from the sides of such vessels.

10. *Wide berth to dredgers and hoppers.*—Vessels and boats approaching or passing dredgers and hopper barges exhibiting the 'not under control' signal shall give such dredgers and hopper barges a wide berth and shall avoid all interference with their operation.

11. *Sounding of steam whistle.*—Every ocean-going vessel or tug towing an ocean-going vessel when passing through the Harbour channel shall sound the steam whistle at short intervals as a warning to other vessels to get out of the way, and a vessel at anchor in the stream shall do likewise when getting under way, and it shall be the duty of all such other vessels to see that a free passage is preserved through the harbour channel for every such ocean-going vessel or tug towing an ocean-going vessel.

12. *Regulation of anchoring, mooring, etc.*—All vessels within the Port shall moor and unmoor or anchor in accordance with the orders of the Assistant Conservator.

13. *Length of cables.*—Vessels, when moored in port, shall have not less than 60 fathoms on each cable and shall keep a clear Hawse.

14. *Cables to be ready to be hove up.*—Vessels when moored with two anchors shall have both cables ready to be hove up immediately if required.

15. *Second anchor.*—Vessels at single anchor shall have a second anchor ready to let go and while laid up in the stream shall sight their anchors every three weeks.

16. *Regulation of moving and warping.*—All vessels within the port shall be moved or warped from place to place as required and by such means or appliances as may be ordered by the Assistant Conservator.

17. *Casting off of warp.*—A vessel shall not cast off any warp made fast to her in order to assist the mooring of another vessel without permission from the pilot in charge of such other vessel.

18. *Pressure of steam.*—Masters of vessel, entering or leaving the Port, shall be responsible for the maintenance of sufficient pressure of steam to work their engines at full speed, ahead or astern as may be required until such times as their vessels are anchored in Port or are clear of the Port channels.

19. *Regulation of the use of mooring, buoys, etc.*—No vessel belonging to private owners shall take up any of the anchorage without the previous permission of the Assistant Conservator.

20. *Regulation of cargo, passenger and other boats, etc.*—Cargo boats, laden or empty, in more than 2 tiers of two in each tier shall not be permitted to hang astern of any vessel without the permission of the Assistant Conservator.

21. *Number of boats which may be made fast to vessels.*—The master or other person in charge of any vessel, at anchor shall not allow more than 10 cargo or other boats to be made fast to such vessels.

22. *Precautions for avoiding collision.*—When two boats, one propelled by sails and the other by oars, are proceeding on a course which, if continued will involve risk of collision, the boat propelled by oars shall keep out of the way of the other, but the boat under sail shall use every precaution to avoid accident and, if necessary, shall alter her course.

23. *Steam boats to keep clear of other boats.*—Tugs when not towing, launches and all boats propelled by steam or other mechanical power shall keep out of the way of all boats not so propelled.

24. *Regulation lights.*—Tugs, launches and all vessels, however propelled shall carry the regulation lights.

25. *Steering of mechanical vessels.*—Tugs, launches and all vessels, propelled by steam or other mechanical means shall be steered from forward of the centre of the vessel, except small motor launches or steam cutters which may be steered from aft. In all cases the helmsman shall be so placed that he may command a clear lookout ahead.

26. *Regulation of the use of fires and lights.*—Fire shall not be allowed on board any boat lying within 50 yards of the jetties.

27. *Heating of pitch.*—Pitch may be heated in the boats alongside or astern of vessels in port, it must under no circumstances be heated on board such vessels.

28. *Unprotected lights not allowed.*—Unprotected lights shall not be allowed on deck or in any cargo compartment of vessels in port loading cotton.

29. *Storing of spirits and other oils.*—Spirits, oils, paints, spirits of turpentine and all inflammable substances shall be stored on board vessels in port in a place of security.

30. *Exhibition of lights.*—All vessels of whatever rig or denomination when underway or at anchor in port shall exhibit the lights required by the regulations.

31. *Sounding of whistles or sirens.*—Whistles or sirens shall not be sounded on board any tug, launch or other vessel within 200 yards of any landing place in port except for the purpose of giving warning of proximity or approach to any other vessel.

32. *Dredgers to carry signals day and night.*—Dredgers at work laying out chains or not under control and hopper barges, similarly employed in attendance on such dredgers and not under control shall carry the regulation signals day and night.

33. *Signals of vessel while employed in towing.*—A steam or other vessel when employed in towing a target, shall by day show from her mast head a square red flag and from one of her yard arms, two red globes of spherical shapes abreast of each other, the shapes being each at least four feet in diameter. Such vessels when similarly employed shall by night show a red light in place of the flag at her mast head and two red lights in place of globes or shapes at either yard arm in addition to her usual mast head and side lights. All vessels shall give such vessels a wide berth and avoid passing under her stern or between her and the target.

34. *Signals in case of fire.*—Whenever a fire occurs on board any vessel within the limits of the port or whenever any vessel within such limits is in distress, or requires assistance from other vessels or from the shore, the signals as required in the international code of signals shall be hoisted. Over heating or smouldering of coal or other cargo in holds or bunkers is to be immediately reported by letter or in person to Assistant Conservator, and no vessel in this condition may be taken into port without the permission of that officer.

35. *Signals according to international code.*—The signals as prescribed in the international code of signals are to be used in the port and such signals as may be required and necessary shall be hoisted, displayed and observed, as the case may be, by the master of the vessel entering or leaving the port whilst in pilotage charge. The master shall hoist or display in such position as the pilot in charge shall direct.

36. *Regulation of number of crew.*—All vessels afloat within the port shall have on board a sufficient number of crew to perform any duties which may become necessary for the safety of the vessel in regard to veering or heaving in cable, bracing up yards, striking mast and yards, etc. in case of emergency arising.

37. *Regulation of the employment of persons engaged in clearing vessels, etc.*—Master of vessels shall not send any person or persons into the bilges or other confined spaces or board their vessels until such necessary precautions as are laid down in the subjoined directions and extracts from the Admiralty Regulations shall have been taken.

DIRECTION

(a) Unless proper precautions are taken persons sent down to scrape the bilges of vessels may lose their lives through asphyria from the inhalation of mephitic gas. The Masters of the vessels are, therefore, directed to guard against accidents by pumping water in and out of the bilges, opening the manhole doors (under proper precautions) so as to ventilate the bilges, and by such other means as may be necessary in each particular case, and they are to prevent person from entering the bilges until these precautions have been taken. The particular attention of Masters of vessels is drawn to the above direction, as well as to the advisability of telling off some competent person to see that no one enters the bilges until the bilge water has been pumped out and that tindals in charge of boys who are to work in the bilge properly carry out all orders given them in this respect. The pumping out of bilge-water will not be permitted in the Port.

EXTRACT FROM ADMIRALTY REGULATIONS

Men cleaning and coating double bottoms.—(1229).

The following precautions are to be observed while men are engaged in cleaning and coating the double bottoms of an iron ship:—

- (a) The air fan with hose is to be freely used for pumping in fresh air before the men are sent down and while they are at work.
- (b) A leading stoker is to be responsible under the Engineer in charge of the party that no man enters a compartment unless a light has been held in and left at the bottom of the compartment for at least five minutes, to ascertain the purity of the air.
- (c) Still greater caution is required when the compartment has only one exit.
- (d) Communication is always to be kept up between the men in the inner compartment and those who have access to the outer air end.
- (e) The men are to be warned that they should leave a compartment immediately the light begins to burn dimly; a candle is to be supplied to each party as a surer test than a lamp, since it might be thought that a lamp burnt dimly for want of trimming.

The same precautions are to be taken when examining Boilers and Bunkers.

[No. 20-M(1)/50-I.]

T. S. PARASURAMAN, Dy. Secy.

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 12th March 1953

S.R.O. 530.—*Corrigendum.*—This Ministry's notification No. 20(50)/51-F(2), dated the 27th January, 1953 published as S.R.O. 233 in the *Gazette of India*, Part II—Section 3, dated the 31st January, 1953 shall be re-numbered as S.R.O. 232.

2. In the said notification, for the word and figure 'section 9' read 'sections 9 and 17' and for the words and figures "31th October 1952" read '13th October 1952'.

[No. 20(50)/51-FII(3).]

C. B. RAO, Dy. Secy.

MINISTRY OF WORKS, HOUSING AND SUPPLY**Central Boilers Board***New Delhi, the 16th March 1953*

S.R.O. 531.—In pursuance of clause (g) of regulation 2 of the Indian Boiler Regulations, 1950, the Central Boilers Board hereby recognises (i) Messrs. R. J. Del Pan Corporation, International Inspection Agency, Japan, and (ii) Messrs. Far East Superintendence Company Limited, Japan, as authorities competent to grant certificate in Form II annexed to the said Regulations, *in Japan*.

[No. M/BL-312(10).]

S.R.O. 532.—In pursuance of clause (c) of regulation 4 of the Indian Boiler Regulations, 1950, the Central Boilers Board hereby recognises Messrs. Stewarts and Lloyds Limited, United Kingdom, as "Well-known" Steel Makers in terms of the Indian Boiler Regulations, 1950.

[No. M/BL-334(1)/52.]

S.R.O. 533.—In pursuance of clause (g) of regulation 2 of the Indian Boiler Regulations, 1950, the Central Boilers Board hereby recognises Messrs. W. A. Zweibaumer, Germany, as authority competent to grant certificate in Form II annexed to the said Regulations, *in Germany*.

[No. M/BL-312(9).]

B. S. KALKAT, Secy.

MINISTRY OF LABOUR*New Delhi, the 11th March 1953*

S.R.O. 534.—In exercise of the powers conferred by section 73-F of the Employees' State Insurance Act, 1948 (XXXIV of 1948), the Central Government hereby exempts the Public Works Department workshops at Belgaum and Ghataprabha from the payment of the employer's special contribution under Chapter V-A of the said Act.

[No. SS.138(5).]

S. NEELAKANTAM, Dy. Secy.

New Delhi, the 11th March 1953

S.R.O. 535.—*Corrigendum.*—The following corrections shall be made in the notification of the Government of India in the Ministry of Labour, No. S.R.O. 204, dated the 19th January 1953, published on pages 123 to 132 of the *Gazette of India*, dated the 24th January 1953, namely:—

(1) On page 127, in para. 14, line 13, for the words "never agreed whereas the other three Association agreed", substitute the words "agreed for bonus of 26 days' wages along with the other".

(2) On page 127, in para. 14, line 15, for the word "Association", substitute the word "Associations".

(3) On page 128, in para. 15, line 8, for the word "establishment", substitute the word "establishments".

[No. LR-2(370).]

S.R.O. 536.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Calcutta, in respect of the dispute between the Hindustan Commercial Bank Ltd., and its Treasurer, Messrs. Moti Lal Jagannath, on the one hand and its employee, Shri K. D. Gupta represented by the Uttar Pradesh Bank Employees Union, on the other hand.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA.
20/1, Guruaaday Road, Ballygunge, Calcutta-19.

BEFORE SHRI K. S. CAMPBELL-PURI, B.A., LL.B., CHAIRMAN.

Reference No. 4 of 1952.

BETWEEN

The Hindusthan Commercial Bank Ltd. and Their Treasurer, Messrs Moti Lal Jagannath.

AND

Their employee, Shri K. D. Gupta, represented by the U.P. Bank Employees Union.

Appearances:

Shri V. N. Sekhri, Provincial Joint Secretary, U.P. Bank Employees Union, Kanpur, for the applicant Shri K. D. Gupta.

Shri K. N. Bhatnagar, Sub Agent, Kanpur, assisted by Shri U. S. Malhotra, Inspector of Branches, for the Bank.

AWARD

By Notification No. LR-100(10), dated 15th January 1952, the Central Government in the Ministry of Labour referred this industrial dispute between the Hindusthan Commercial Bank Ltd. and their Treasurer Messrs Moti Lal Jagannath on the one hand and their employee Shri K. D. Gupta represented by the U.P. Bank Employees' Union on the other hand, in respect of the matter specified in the Schedule which is reproduced as below:

SCHEDULE

Whether the termination of the services of Shri K. D. Gupta, former head-cashier in the Hindusthan Commercial Bank Ltd., Hardoi, was justified and, if not, whether he should be reinstated, suitably compensated or granted some other relief.

The usual notice was issued to the U.P. Bank Employees Union for filing statement of claim in a month's time with a copy to the other side as well as to the employer Bank for filing their written statement thereafter in a likewise period. On the completion of pleadings the case came up for hearing in due course at Lucknow on 16th February 1953 in the presence of Shri V. N. Sekhri, Provincial Joint Secretary, U.P. Bank Employees Union for the applicant Shri K. D. Gupta and Shri K. N. Bhatnagar, Sub Agent, Kanpur, assisted by Shri U. S. Malhotra, Inspector of Branches for the Bank.

The facts of the case are short and simple, and the applicant's case as disclosed from the pleadings is that he joined the Bank's service on the 30th November 1945 as godown-keeper and at the time of discharge was working as head-cashier in Hardoi Branch. It so happened that he fell ill and applied for leave on medical ground with effect from 3rd January 1951 to 12th January 1951 in the first instance. This leave was duly granted to him and he rejoined his duty, but again asked for two days Casual Leave from 16th January 1951 to 18th January 1951. He however could not join his duty on the expiry of the casual leave and asked for an extension by an application, dated 18th January 1951 for three weeks. This application was sent to the head office by the local Agent and as borne out from the documentary evidence, was not disposed of for pretty long time. Meanwhile, Shri Gupta was informed by letter, dated 19th February 1951, that the Treasurer had withdrawn his guarantee and that he was not required to attend the office in view of the withdrawal of the guarantee. He thereupon made a representation direct to the General Manager which was resented by the Sub Agent and he was called upon to explain his conduct by letter, dated 27th February 1951, on more than one charges including the one viz. that why he had approached the General Manager directly. Shri Gupta submitted his explanation and at long last he was informed by the Branch Sub Agent on 21st July 1951 that his resignation had been accepted with effect from the date of the letter of resignation i.e. from 20th January 1951. A few days after the applicant was informed by another letter dated 1st August 1951 that his resignation having been accepted by the head office, he should apply for the settlement of his Provident Fund and that he should also refund Rs. 39/15/- on account of salary and allowances drawn by him in excess and return the office locks still lying in his possession. The applicant however maintained that he never tendered any resignation and as such the termination of his services was not justified. He himself did not choose to come into the witness

box and the Union representative relied only upon the documentary evidence which was exhibited on the record from Ex. A to Ex. T.

On the other hand the Bank's case as stated by Shri K. N. Bhatnagar put briefly is that the Cashiers are employed under the guarantee of the Treasurer who is responsible for their work and it so happened that the applicant after having enjoyed some leave which was granted to him went to Lucknow from Hardoi on 20th January 1951, and handed over an application for three weeks' leave, dated 18th January 1951, along with a letter of resignation, dated 20th January 1951, to the Treasurer, Messrs Moti Lal Jagannath. The Treasurer recommended the leave application to the Bank and also accepted the resignation, but handed over both the documents to Shri K. D. Gupta for transmission to Sub Agent, Hardoi. He however kept back the letter of resignation with him and sent the leave application only to the branch office. The Treasurer meanwhile informed the Hardoi office about the resignation of Shri Gupta and also appointed one Girjanand in place of the applicant as a temporary measure. Shri Girjanand was again replaced by Shri R. B. Srivastava which arrangement was approved by the head office with the result that the services of Shri K. D. Gupta came to an end with effect from his letter of resignation dated 20th January 1951. Shri Bhatnagar, the Bank representative also did not choose to examine any witness in support of the pleas and relied upon certain documents marked as Exhibits 1 to 7.

On the perusal of the evidence and on the appreciation of the arguments advanced by both sides, I should say at the outset that it was a fit case in which the applicant and the Treasurer both should have been examined as witnesses but the parties despite calling upon them pleaded their inability and relied upon the documentary evidence only. The Union representative in this connection produced a letter of Shri Gupta, dated 12th February 1953 (Ex. R), wherein he had written to the Secretary of the Union that his daughter had been ailing for about a month and he was unable to proceed to Lucknow and that the Union should fight his case and get him reinstated. In the absence of the sworn testimony of the applicant or the Treasurer on the question of resignation the facts on the record are rather confused and are susceptible to close scrutiny. The documentary evidence relied upon of course reveals that the applicant remained on leave from 3rd January onward up to 20th January which is the crucial date in regard to the issue involved. The leave application referred to above was exhibited on the record as Ex. 7 and in view of its significance the same is reproduced as under:

Ex. 7:

The Sub Agent

The Hindusthan Commercial Bank Ltd., Hardoi

Sir,

Respectfully I beg to state that I am suffering from cold and cough for three days on account of which I have pain in my back. Secondly, during winter I get great trouble on account of Hydrocyle. Now I am taking injections course which will take at least three weeks time.

I therefore request you kindly grant me three weeks leave from 16th January 1951 to 5th Feb. 1951. The Medical Certificate is appended for your perusal. For this act of kindness I would be highly obliged.

The 18th January 1951.

Yours obediently,

(Sd.) K. D. GUPTA, Cashier.

On the back of this application there is a note giving the leave account certified by the Sub Agent, Hardoi and on the left hand side of the application there are certain remarks made by the officers concerned and certificate by the Doctor with the words "Recommended leave for three weeks only for treatment." The final order on the application of leave was admittedly not passed one way or the other and instead of any intimation regarding leave the petitioner was informed that with reference to his representation addressed to the head office his resignation submitted to the Treasurer on 20th January 1951 had been accepted. The applicant furthermore was charge-sheeted and called upon to explain by letter dated 27th February 1951 (Ex. G) in the following words:

Ex. G:

"2. For not having submitted your resignation after getting it accepted by the Treasurer and keeping the same with you."

Shri Gupta in his explanation to charge No. 2 stated as follows:

Ex. H:

"2. For second charge I beg to say that I have never submitted any resigna-

The other evidence in this connection relates to the correspondence of the Treasurer with the Bank and this reveals that the Treasurer Moti Lal wrote to the Sub Agent, Hardoi to the effect that Shri K. D. Gupta had submitted his resignation and another man named Girjanand was appointed in his place, who belongs to that locality. This letter is dated 24th January 1951 and was exhibited on the record as Ex. 2. This is also reproduced for the purposes of proper understanding of the facts and circumstances which led to the dispute in question:

Ex. 2:

Ref: Appointment of a Cashier at your cash deptt.

Since Shri K. D. Gupta our cashier of your branch has submitted his resignation, we have appointed Shri Girjanand in his place who belongs to that locality and whose signatures are appended below.

Please allow him to work in his place at your cash deptt, we are also writing to Head Office.

A letter of guarantee is enclosed herewith.

(Sd.) MOTI LAL, Treasurer."

The Treasurer sent another letter to the Sub Agent, Hardoi, dated 28th January 1951 (Ex. 3) wherein he stated that Shri Gupta had played a dirty game with the Bank as he did not attend office when the other Cashier was ill and a special call was made upon him and that Shri Gupta had seen the Treasurer at Lucknow three or four days ago and submitted his resignation along with leave application. This too has direct bearing on the matter in controversy and shall be dealt with presently. There is yet another letter dated 3rd February 1951 of the Treasurer (Ex. 4) in continuation of the correspondence sent to the Sub Agent, Hardoi whereby the guarantee in respect of Shri K. D. Gupta was withdrawn by the Treasurer and the Sub Agent was asked not to allow Shri Gupta to resume his duty in the Cash Department and that the Treasurer was trying to make a separate arrangement. Lastly reliance was placed on the Bank's side on another letter in Hindi (Ex. 5) dated 20th January 1951 which is marked "Personal and Confidential." In this letter the Treasurer has said that Shri K. D. Gupta had seen him at Lucknow and that his leave application was accepted and the letter of resignation was forwarded to the Bank's office because Shri Gupta had no intention of serving any more and that the Treasurer was trying to find out a local man to fill up the post etc.

It will be seen from the above correspondence and the attending circumstances as disclosed from the Bank's evidence that the Treasurer worked on the basis of a letter of resignation alleged to have been presented before him by Shri K. D. Gupta on 20th January 1951 at Lucknow and at the same time forwarded the leave application of the same date to the Sub Agent with his recommendation and thereby had allowed the applicant to remain on leave. This makes the confusion all the more confounded and it appears that both sides have not come with clean hands before the Tribunal. The applicant has not chosen to come into the witness box and to subject himself to the cross-examination of the other side on this crucial point as to whether he actually submitted his letter of resignation to the Treasurer or not and the Bank also failed to examine the Treasurer on the question of resignation which even if it had been tendered was withdrawn and was not sent to the Bank's office. To my mind, it requires too much credulity to accept the position taken up by the applicant that the whole story of resignation was a concocted one and was altogether the figment of imagination of the Treasurer. It appears that a letter of resignation was given to the Treasurer but subsequently the applicant changed his mind and kept it with him and did not send to the Sub-Agent of the Bank as directed by the Treasurer. The Treasurer meanwhile as said above informed the Bank that the applicant had no mind to continue in the service of the Bank and appointed another man. The question arises as to whether the Bank was justified in terminating his services on the basis of an alleged resignation which never reached the proper authority viz. the head office and even if it was once tendered whether the applicant could not withdraw it any time. The other aspect of the question is that the leave was recommended but no information was given to the applicant until July 1951 and this makes the position of the Bank rather intriguing if not wholly untenable. In these circumstances it seems clear to me that the Bank was either delaying the matter deliberately or was awaiting the reply of the applicant on the charges levelled against him in regard to the withdrawal of resignation letter and some other charges. Be that as it may, the hard fact remains that there was no resignation before the Bank and it appears that the Treasurer although recommended leave yet resented the attitude of the applicant in not attending the office when another cashier fell ill and he was called upon to take up duty for a day or so as evidenced from the letter dated 28th January 1951. The position of the applicant in this respect can

also be visualized in not responding to the emergent call for attending the office on 25th on the assumption that he had already applied for extension of leave upto 5th February and could afford to refuse the emergent call. This however exasperated the management and the Treasurer and they thought of getting rid of him and the alleged letter of resignation was availed of as a pretext for the termination of his services which otherwise could have been dispensed with only by regular enquiry into the charges and finding him guilty of misconduct or by having refused to grant the leave which again was difficult because the same was recommended by the doctor as well as by the Treasurer. To be more explicit, the management in all probability found a way to get rid of the man by working on the alleged letter of resignation which as held above was submitted to the Treasurer but was withdrawn and never reached the head office. The method adopted obviously cannot be upheld in any judicial court of law much less in courts administering social justice and equity. For all these reasons my finding on the first part of the issue is that the termination of the services of Shri K. D. Gupta was not justified.

This brings me to the other part of the issue viz. 'whether he should be reinstated'. In this respect I have no hesitation in saying that it is not a fit case for reinstatement. The applicant had been admittedly ailing for some time and used to work at the shop of his cousin after office hours as evidenced from Ex. H and in all probability tendered his resignation, upon which the Treasurer appointed another man. The applicant accordingly has not said the whole truth and has deliberately avoided to come into the witness box to explain his position. Moreover, the pendulum of time has swung for more than two years by this time and no less than three incumbents have changed their hands for this post and the one working in his place is a permanent hand. It would, therefore, be too much to allow reinstatement and throw the present incumbent out of employment for which I am not prepared.

As to what relief the petitioner is entitled to, I am of the opinion that when his leave application was recommended by the doctor as well as by the Treasurer the same should have been decided in due time and not allowed to hang on upto August 1951. The applicant meanwhile was not allowed to attend office on the plea of withdrawal of guarantee to no fault of his during this period from 18th January 1951 to 21st July 1951 when he was apprised of his discharge. He is, therefore, in fairness entitled to all the salary and allowances admissible under rules up to 21st July 1951 and furthermore to compensation for unjustified discharge from service which I assess to six months salary and allowances he was drawing at the time of discharge. Any sum already paid towards salary and allowances after 20th January 1951 shall be deducted in the computation of the salary etc. allowed up to 21st July 1951 and the direction shall be carried out within one month from the date when the award becomes operative.

Now, therefore, this Tribunal makes its Award in terms aforesaid, this the 21st day of February 1953.

(Sd.) K. S. CAMPBELL-PURI, *Chairman*,
Central Government Industrial Tribunal,
Calcutta.

[No. LR.100(10).]

S.R.O. 537.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to publish the following award of the Industrial Tribunal, Calcutta, in respect of the industrial dispute between the Hindusthan Commercial Bank, Ltd., Kanpur, and their workmen.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA.

20/1, Gurusaday Road, Ballygunge, Calcutta-19.

BEFORE SHRI K. S. CAMPBELL-PURI, B.A., LL.B., CHAIRMAN.

Reference No. 11 of 1952

BETWEEN

The Hindusthan Commercial Bank Ltd., Kanpur.

AND

Their workmen.

(Re: Shri Shyam Lal Gupta)

Appearances:

Shri Shyam Lal Gupta in person.

Shri V. N. Sekhri, Provincial Joint Secretary, assisted by Shri Harmangal Prosad of the U. P. Bank Employees Union for the applicant.

Shri K. N. Bhatnagar, Sub Agent, Kanpur, for the Bank.

AWARD

By Notification No. LR-100(39), dated 8th July 1952, the Central Government in the Ministry of Labour referred this industrial dispute existing between the Hindusthan Commercial Bank Ltd., and their workmen in respect of the matters specified in the schedule which is reproduced as below:

SCHEDULE

- (1) Whether or not Shri Shyam Lal Gupta worked as Officer-in-Charge at Harpalpur Pay Office of the Bank with effect from the 1st August 1947, that is, from the date the status of the office was raised from Sub-Pay Office to that of Pay Office.
- (2) For what period did he work in that post and what should be his pay for the period.

The material facts pertaining to the grievance of the applicant are these: Shri Shyam Lal Gupta joined the Bank's service in March 1944 as a Godown-keeper and he is still working in the Bank as a permanent employee. It so happened that in August 1944 Shri Gupta was entrusted with the opening of the Sub Pay Office at Harpalpur and was designated as Cashier Incharge with a Power of Attorney granted in his favour. His designation was subsequently changed into Clerk-in-Charge in October 1946 and he continued as such. It was in August 1947 that the status of Sub Pay Office was raised to that of Pay Office and the designation was changed from Clerk Incharge to Officer Incharge by Head Office Circular No. 209/47, dated 31st July 1947. Meanwhile the award of Shri B. B. Singh came into force and the grades of the Clerks Incharge in U.P. were raised as well as amount of Dearness Allowance was increased. Applying the terms of the award the salary of Shri Gupta was raised from Rs. 66 to Rs. 120 with an increase of Dearness Allowance from Rs. 20 to Rs. 36 and he was also paid the arrears of salary and allowances with retrospective effect from 1st January 1947 to 30th June 1947. The Bank at the same time thought of changing designations and the duties of their employees in the same year viz. 1947 and Shri Gupta was ordered to be transferred from Harpalpur to District Manager's Office, Lucknow and his salary was reduced from Rs. 120 to Rs. 66 and Dearness Allowance from Rs. 36 to Rs. 20 which he used to receive earlier before the application of Shri B. B. Singh's award. His grievances now are: (1) that his transfer from Harpalpur amounted to his demotion, (2) that the Bank was not justified in calling upon him to refund the salary and allowances received by him from 1st January 1947 to 30th June 1947, (3) that he should be put in the grade of Rs. 120—8—200—10—300 plus 30 per cent. Dearness Allowance from 1st January 1947 and all arrears of salary and allowances be paid to him, (4) that he should get all arrears of increment in the above grade with retrospective effect, and (5) that his status should be restored to that of Officer Incharge and be posted at Harpalpur or on an equivalent post at some other office.

The defence of the Bank given in reply was that Shri Gupta no doubt was appointed as Cashier Incharge of Sub Pay Office Harpalpur and subsequently his designation was changed from Cashier Incharge to Clerk Incharge but it was not correct that he was made Officer-in-Charge at Harpalpur. It was contended *inter alia* that Harpalpur Sub Pay Office was raised to the status of Pay Office but as Harpalpur was situated in Alipur State in 1947, the laws applicable to U.P. were not applicable to the native States and Shri B. B. Singh award did not apply to Alipur State. But, inadvertently the Bank applied the terms of the award in the case of Shri Gupta; and his pay was raised from Rs. 66 to Rs. 120. Subsequently, the Bank detected their mistake of having wrongly applied the terms of Shri B. B. Singh award to Harpalpur Office and called upon Shri Gupta to refund the excess of salary and allowances paid to him and the deductions were made from his salary by monthly instalments in the realization of the excess money. It was furthermore alleged that the status of Harpalpur Sub Pay Office was raised to Pay Office in order to accommodate Shri R. C. Khattri who was entitled to the grade of Rs. 120 because he was working as an Accountant at Mirzapur in U.P.

Shri Shyamlal Gupta was examined as his own witness and subjected himself to the cross examination of the other side and some documentary evidence was also adduced which was placed on the record Ex. A to Ex. G. The Bank representative, however, did not examine any witness and relied upon the documents Ex. 1 to Ex. 9. Of the documents Ex. A and B relate to circulars whereby the status of

Harpalpur Sub Pay Office was raised to that of Pay Office (Ex. B) and the order of transfer of Shri Gupta to District Manager's office (Ex. A). The other documents, Exhibits D, E and F were produced to show that Shri Gupta was shown as an Officer Incharge of Harpalpur Pay Office in the Bank record and was treated as such by the management. The documents relied upon by the Bank side mostly relate to the office correspondence about the transfer of Shri Gupta and the working of Harpalpur Pay Office (Exhibits 2 to 7). These documents are of formal nature and do not warrant any special attention in the determination of the issue. Exhibits 1, 8 and 9 of course constitute material evidence. Of these Ex. 1 speaks about the transfer of Shri Gupta and under post script note it was said that he could draw his salary at the rate of Rs. 120 per mensem plus Dearness Allowance @ 30 per cent. with a maximum of Rs. 50 per month with effect from the 1st January 1947 up to the date he was relieved of the charge of the Pay Office. It was also mentioned in this letter that thereafter he will continue to draw the substantive salary of Rs. 66 per month as drawn by him previously. Ex. 8 is a letter sent by Shri Gupta to the District Manager, dated 2nd August 1947 wherein he asked for special increment and Ex. 9 is a reply to Ex. 8 whereby he was informed that his case will be considered when his next graded increment becomes due to him. Of the oral evidence as said above only Shri Gupta was examined as his own witness and he reiterated the facts given above and explained his grievances in all their implications.

Now in the light of the issue reproduced above the points raised before the Tribunal in evidence as well as in the statement of claim clearly go far beyond the questions posed for determination and it will be seen that the only question referred to by the appropriate Government for adjudication is confined to:

Whether Shri Gupta worked as Officer Incharge with effect from 1st August 1947 when the status of the Harpalpur Sub-Pay Office was raised to Pay Office; and for what period he worked and what should be his pay for that period.

Obviously, the question as to whether he was demoted from the post of Officer Incharge to a clerk again when he was transferred to District Manager's office at Lucknow does not form the subject of the issue. Similarly, whether he is entitled to the repayment of the deductions made from his salary in realization of the alleged excess paid to him for the period commencing from 1st January 1947 to 30th June 1947 by the Bank and another relief viz. that he should be put in the grade of Rs. 120—8—200—10—300 from 1st January 1947 are beyond the scope of the points referred to for adjudication.

Consequently it was deemed proper to call upon the parties to argue once again and this time Shri V. N. Sekhri arguing on behalf of the applicant frankly conceded that the question of putting Shri Gupta in the grade of Rs. 120—8—200—10—300 on the basis of his previous work and length of service does not form the subject matter of issue and as such cannot be gone into by the Tribunal. He however maintained that so far the other points are concerned viz. re-payment of the deductions made from his salary and his demotion from the status as Officer Incharge to that of a clerk the same can be considered of course up to 1st November 1947, the date on which he relinquished the charge of Harpalpur Pay Office and joined District Manager's office at Lucknow. Shri Bhatnagar had nothing to say more and on the appreciation of the fresh arguments made by both sides, it seems clear to me that the only question for the determination of the Tribunal is whether Shri Shyam Lal Gupta worked as Officer Incharge at Harpalpur Pay Office with effect from 1st August 1947 (the date the status of the office of Harpalpur was raised from Sub Pay Office to Pay Office) and secondly to determine the period and the pay he was entitled to for that period. Answering these questions Shri Bhatnagar on behalf of the Bank faintly argued that Shri Gupta was only a Clerk Incharge and not Officer Incharge but his assertion stands negated by the documentary evidence relied upon by the Bank itself. In this respect the Establishment Superintendent's communication dated 19th June 1947 (Ex. 4) addressed Shri S. L. Gupta as Officer Incharge and similarly the District Manager's communication dated 21st June 1947 (Ex. 5) addressed to the Managing Director are noteworthy wherein Shri Gupta was mentioned as Officer Incharge while forwarding his leave application to the Managing Director. The Establishment Superintendent in another communication dated 14th July 1947 (Ex. 7) addressed to the District Manager also mentioned Shri Gupta as Officer Incharge while dealing with the case of his transfer. There is yet another letter dated 5th August 1947 (Ex. 9) sent by the District Manager himself direct to the Officer Incharge, Harpalpur wherein Shri Gupta is addressed as Officer Incharge. These admissions are very significant and the question hardly requires any further elaboration. Issue No. (1) is accordingly decided in favour of the applicant holding thereby that Shri Shyam Lal Gupta worked as Officer Incharge of Harpalpur Pay Office with effect from 1st August 1947.

Regarding Issue No. (2) part I, it is not disputed by the Bank's side that Shri S. L. Gupta relinquished the charge of Harpalpur Pay Office on 1st November 1951. This is, of course, in evidence that he received transfer order once in June 1947 when one Shri R. C. Khattri was to join in his place but that transfer did not materialise and he continued working and was ultimately relieved by one Shri Rawat on 1st November 1947. So far this part of the issue goes the parties therefore are not on any controversial ground and the finding would be that he worked in the capacity of Officer Incharge at Harpalpur Pay Office till 1st November 1947.

This brings me to the crucial point *viz.* what should be his pay for that period. The stand taken up by the Bank as said above was that as Harpalpur Pay Office was situated on the border of U.P. in Alipur State the laws applicable to U.P. were not applicable to that place but the Bank inadvertently raised the salary of Shri Gupta from Rs. 66 to Rs. 120 in pursuance of Shri B. B. Singh award. Subsequently when the Bank found that the terms of the award were wrongly applied in Harpalpur Pay Office they called upon Shri Gupta to refund the excess of salary paid to him and he was transferred from Harpalpur to District Manager's office, Kanpur. It was contended that at some other places bordering U.P. the incumbents incharge of Sub Pay Offices were getting lesser salary in 1947 than Rs. 120. The instances of Datia, Patti Mandi, Batala Pay offices were cited. Now this is correct that Shri Gupta in his deposition as well as in Ex. 10, a letter sent to the Bank has admitted that the B. B. Singh Award by which his starting salary was raised to Rs. 120 did not apply to Alipur State. He however clarified his statement by stating further that other Banks working in Alipur State had applied B. B. Singh Award and as Harpalpur Sub-Pay Office was working under Mauranpur Pay Office and was furthermore under the direct control of the District Manager Kanpur, Harpalpur could not be distinguished from other branches in U.P. for the purpose of implementation of the terms of B. B. Singh award. Shri Sekhri furthermore arguing on behalf of the applicant vehemently urged that the distinction sought to be made by the Bank in the case of Harpalpur was meaningless inasmuch as Harpalpur was working under the same Cash Department as well as the same Treasurer. It was next argued that although Shri Gupta has stated in his deposition that Harpalpur was in Alipur State yet that statement was made under certain misconception and the hard fact is that Harpalpur was in U.P. as borne out from Ex. J—the Balance Sheet and Profit & Loss Account of the Bank for the year ending 31st December 1947. Reference was made in particular to the notice published in this report on the last page where the names of branches, sub branches and Pay Offices are mentioned and Harpalpur is shown under the Heading U.P. It was maintained that Harpalpur although situated on border line yet formed a part of U.P. for the purpose of Bank administration as evidenced from Ex. J. Shri Bhatnagar had no cogent reply to all these assertions and on careful consideration of the facts and circumstances of the case I am satisfied that this distinction was not real and was only taken up by the Bank sometime after in order to deprive the applicant from the salary which he was given of their own accord as evidenced from Ex. A whereby he was also allowed to collect his salary @ Rs. 120 with retrospective effect from 1st January 1947.

In this connection it would be pertinent to refer to the award of the All India Industrial Tribunal (Bank Disputes) in the case of Brij Lal Rawat (published in the *Gazette of India*—Part II Section 3, dated 26th August 1950—page 478) who admittedly took over from Shri Gupta on 1st November 1947. This employee at one time served as a Godown-keeper under Shri Gupta at Harpalpur branch and was subsequently promoted to the position of a Clerk Incharge of Chirgaon Branch and on the closure of that branch was transferred to Datia branch where the award of the U.P. Conciliation Board was not made applicable. His salary was therefore reduced from Rs. 100 to Rs. 66 and Dearness Allowance from Rs. 30 to Rs. 20 almost on the similar lines which were adopted by the Bank in the case of Shri Gupta. Rawat moved the Tribunal and his case came for decision before the All India Industrial Tribunal (Bank Disputes) and in the course of arguments (as borne out from the award) Shri U. S. Mehrotra, the Bank representative, stated that the employees who get the benefit of U.P. award were not deprived of it by reason of the transfer to places where the award did not apply and the Tribunal accordingly allowed the claim of Shri Rawat and he was paid all the arrears due to him. The principle enunciated in Rawat's case applies in the case of Shri Gupta also and the Bank cannot be allowed to depart from the position taken up by them through Shri U. S. Mehrotra before the All India Industrial Tribunal (Bank Disputes) award now when the same point is posed for determination before this Tribunal. This circumstance coupled with others leave no manner of doubt that the Bank was not justified in withholding the grade of Rs. 120—8—200—10—300 to Shri Gupta for the period he worked as Officer Incharge at Harpalpur.

In the result I have no hesitation in coming to the conclusion that Harpalpur

Bank applied the terms of B. B. Singh award of their own accord and there was no reason for the management to withhold the salary at the rate of Rs. 120 when Shri Gupta worked as Officer Incharge of Harpalpur Pay Office. Shri Bhatnagar's last contention in this respect was that B. B. Singh award only applied to Senior Clerks and not to clerks but the argument appears to have been based on the assumption that Shri Gupta worked as Clerk Incharge at Harpalpur and not Officer Incharge as held above and is devoid of any substance. This part of the issue accordingly goes in favour of the applicant and Shri Gupta is held entitled to payment of salary for the period from 1st August 1947 to 1st November 1947 at the rate of Rs. 120 per month plus allowances admissible under rules. The Bank is directed to make the payment within a month with effect from the date when the award becomes effective.

Now, therefore, this Tribunal makes its Award in terms aforesaid this the 24th day of February 1953.

K. S. CAMPBELL-PURI, *Chairman*,
Central Government Industrial Tribunal, Calcutta.

[No. LR.100(39).]

S.R.O. 538.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in respect of the industrial dispute between the Hindusthan Commercial Bank Ltd. and their workmen regarding Shri Kashi Prasad Bajpai.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 Gurusaday Road, Ballygunge, Calcutta-19.

BEFORE SHRI K. S. CAMPBELL-PURI, B.A., LL.B., CALCUTTA.

Reference No. 15 of 1952

BETWEEN

The Hindusthan Commercial Bank Ltd.

AND

Their Workmen

(Re. Shri Kashi Prasad Bajpai of Lucknow Branch)

Appearances:

Shri Kashi Prasad Bajpai in person.

Shri V. N. Sekhri, Provincial Joint Secretary, U.P. Bank Employees Union, Kanpur for the applicant Shri Kashi Prasad Bajpai.

Shri K. N. Bhatnagar, Sub Agent, Kanpur, for the Bank.

AWARD

By Notification No. LR.100(24), dated 20th May 1952, the Central Government in the Ministry of Labour referred this Industrial dispute existing between the employers in relation to the Hindusthan Commercial Bank Ltd. in respect of the matter specified in the schedule annexed thereto which is reproduced as follows:

SCHEDULE

Whether the termination of the services of Shri Kashi Prasad Bajpai from the Lucknow Branch of the Bank was justified and, if not, what relief should be granted to him.

The usual notice was issued to the parties and on the completion of pleadings the case came up for hearing in due course at Lucknow on 20th February 1953. Shri Kashi Prasad Bajpai made his appearance in person and was also represented by Shri V. N. Sekhri, Provincial Joint Secretary, U.P. Bank Employees Union, Kanpur while Shri K. N. Bhatnagar, Sub Agent, Kanpur appeared for the Bank.

The essential facts are these—

Shri Bajpai joined the Bank's service as an Assistant in 1943 and was promoted to the post of Head clerk sometime after. He was working as a permanent hand in Hazratganj Branch when his services were terminated on the ground that he had become surplus to the requirements of the Bank. His grievance is that there were several other employees junior to him and although his work had been throughout satisfactory he was thrown out of employment unjustifiably on the plea of retrenchment. It was also alleged *inter alia* that he was discharged during the pendency of proceedings before the Tribunal without having obtained prior

permission of the Tribunal under section 33 of the Industrial Disputes Act and as such the discharge order was also illegal. Shri Bajpai explained his case in details as his own witness, and furthermore produced some documents which were exhibited on the record Ex. A to O. The Bank opposed the complaint and submitted that more than one branches of the Bank were closed due to slump in business and a good number of employees became surplus to the requirements of the Bank. The Bank examined the position of staff in all the branches in terms of the directions given in para. 161 of the All India Industrial Tribunal award and the services of Shri Bajpai along with others were terminated on payment of three months salary in lieu of notice. It was admitted by the Bank that Shri Bajpai was not the juniormost and some new appointments were also made subsequent to his discharge, but it was maintained that the retrenchment of the staff was effected in the adjustment of the requirements of the Bank as a whole regard being had to the efficiency and better utility and not on the basis of juniority. Documentary evidence adduced and relied upon by the Bank was confined to a copy of the reply to the representation of Shri Bajpai sent to the Regional Labour Commissioner, dated 23rd July 1951 (Exs. 2/3) and reliance was also placed on a letter, dated 29th April 1950, relating to an enquiry made by the Inspector of Branches about the fitness of the employees Ex. 1.

As borne out from the facts given above, it is a case of retrenchment and the one point for determination is as to whether the discharge of Shri Bajpai from service was made with the application of recognized principles to be followed in the matter of retrenchment. Now the one outstanding principle that is to be invariably considered in the matter of retrenchment is of 'last come first go' and the same has been given effect by collective agreements between capital and labour in most of the civilized countries in order to protect the employees against discrimination or favouritism on the part of the employer whenever retrenchment is to be applied. The severity resulting from unemployment has also been the concern of trade unions and the practice generally followed for the retrenchment of workers has not been only left at the option of the employer but is governed by the rule of seniority. It is accordingly a truism that seniority by itself gives a right to the employee over others by virtue of long service which normally adds to his merit also by experience of the work, and judged in this view the principle of seniority cannot be ignored as the employer has sought to do in this case by urging the broad plea of efficiency and utility of the employee to the Bank. I am conscious that by applying the rule of seniority only the employer might loose competent new entrants but as observed above if any such preference was to be given in dispensing with the services of a senior man by retaining the services of junior ones it was incumbent upon the employer to discharge the heavy onus that the senior man was actually inefficient. On merits, Shri Bajpai has alleged in his statement of claim as well as in the representation to the Regional Labour Commissioner (Ex. B) that there was no occasion during his long service of seven years of his having been charge-sheeted or called upon to explain for inefficiency or any other fault and his promotion from Assistant to Head Clerk and grant of regular increments constitute proof positive for his satisfactory and good efficient work. Shri Sekhri arguing on his behalf also referred to his trade union activities of Shri Bajpai and some of his grievances relating to the cut in dearness allowance, travelling allowance, non payment of overtime work, change of designation from Head Clerk to Senior Clerk (detailed in Ex. J and in the correspondence exhibited on the record on the side of the applicant in this connection) and argued that the termination of his services was traceable to his trade union activities and his enmity with Shri Ganga Prasad Mehrotra, Agent of the above branch. The applicant has made an attempt to show that he has been victimised on account of his enmity with the Sub Agent and his trade union activities. In his deposition however he has not said anything of such activities and no case of bad labour practice or victimization has been made out. It appears as usual all sort of pleas have been advanced without realizing that some such pleas cut both ways.

On the appreciation of all the facts and circumstances and the assessment of the evidence I am of the opinion that the discharge of Shri Bajpai was not motivated by his trade union activities with the Bank or owing to the grievances which he was nursing about the payment of overtime, travelling allowance and other matters. His case appears to me a simple one and in my opinion he has rather confused the issue by introducing various grievances. Ex. A, a document dated 29th April 1950 filed and relied upon by the Employees Union on behalf of the applicant furnishes a clue to the situation which arose at the time of the termination of Shri Bajpai's services. This document was also produced by the Bank and exhibited (Ex. 1) and the same is reproduced in view of its significance:

"Ex. A:

The Inspector of Branches,

Hindusthan Commercial Bank Ltd.,
Lucknow.

Sir,

Regarding your enquiry about my fitness to work in the Bank, I am indeed sorry for the past because on account of falling health I was not in a position to discharge my duties as regularly and efficiently as I should have done.

However, I have now put myself under treatment of a competent doctor and I hope that a little while after I will be fit enough to discharge my duties to your entire satisfaction.

I pray that no drastic action may kindly be taken against me for the time being. I am prepared to forego my claims to grade increments till such time I am considered fit to work in the place where I have been placed by the Bank.

LUCKNOW;

The 29th April 1950.

Yours obediently,

(Sd.) K. P. BAJPAL."

It will be seen that Shri Bajpal had been ailing for a pretty long time and was incapacitated to some extent for putting good efficient work as he admits in this document Ex. A. It appears that the management had no sympathy for the man who had served them for more than seven years and while applying the axe of retrenchment picked him up, disregarding his length of service and previous good work. As observed above when effecting retrenchment although it is the management's right to determine the strength of their employees, the management should always justify retrenchment in not applying the ordinary rule of 'last come first go'. Applying this principle some evidence was expected to have been adduced on the employer's side as to why this principle was not applied in the case of the applicant, and if his efficiency had been impaired on account of his illness, it was to no fault of his and he was likely to recoup his health soon after. It is not disputed that he was ailing and was not avoiding his duty otherwise and as evidenced from Ex. 1 Shri Bajpal frankly agreed to forego annual increment and prayed that no drastic action be taken against him for the time being and hoped that little while after he will be fit enough to discharge his duties to the entire satisfaction of the employers. Considering all these facts and circumstances I think he deserved better treatment at the hands of the employer as an old employee and should not have been thrown out in his distress. I hold on merits that his retrenchment from service was not justified accordingly.

The other contention relating to the legal objection *viz.*, "that the services of Shri Bajpal came to end during the pendency of proceedings before the Tribunal and prior permission of the Tribunal under Section 33 of the Act was necessary" was neither pressed in the course of arguments nor any evidence was led to show as to which proceedings were pending. As such, this objection need not be gone into. This contention moreover is subject to the finding on facts, which has already been found in favour of the applicant.

Coming to the second part of the issue *viz.* 'what relief should be given to him', it is in evidence that Shri Bajpal had already been re-employed in Food department although his post in the Government service is of a temporary measure. He took up the new appointment in the Ration office about two years ago *i.e.* from 31st May 1951; but still he wants to come to the Bank again because his salary in the ration office is not sufficient to maintain his family. Now Shri Bajpal was discharged in October 1950 on the plea of having become surplus to the requirements of the Bank and in the absence of any good evidence of bad labour practice on the part of the employer I don't think it is a fit case for reinstatement. It is also admitted that no new branch has been opened and I think it would be difficult to absorb him back on his post after two years. Shri Bajpal however deserves substantial compensation inasmuch he has been out of employment for about six months from the date of discharge from service and the salary he is now drawing in the Food Department is much less compared with the salary he was drawing in the Bank. In determining the quantum of compensation I am therefore of the opinion that the period he was out of employment should also be taken into consideration; with the result that he shall be paid compensation at the rate of the salary and allowances that he was drawing at the time of his discharge for full one year and the Bank is directed to carry out the direction within one month from the date when the award becomes operative.

Now, therefore, this Tribunal makes its Award in terms aforesaid this the 2nd day of March 1953.

(Sd.) K. S. CAMPBELL-PURI, Chairman,
Central Government Industrial Tribunal Calcut -

ORDERS

New Delhi, the 11th March 1953

S.R.O. 539.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Bombay Mutual Life Assurance Society Limited, Calcutta, and their workmen at Calcutta in respect of the matters specified in the schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal, at Calcutta, constituted under section 7 of the said Act.

SCHEDULE

1. Whether retrenchment of about fifty temporary workmen is justified and if so, what retrenchment compensation, if any, should be paid.

2. Whether temporary employees who have completed six months service should be made permanent with retrospective effect from date of appointment and whether on confirmation, they will be entitled to any arrears of difference of salary and dearness allowance from the date of appointment.

3. Whether the whole or any part of the service rendered by the workmen under the Management of the Chief Agents, Dastidar and Sons, should count as service under the Bombay Mutual Life Assurance Society Limited.

[No. LR.90(153).]

New Delhi, the 17th March 1953

S.R.O. 540.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the South Bulliaree Kendwadh Colliery and their workmen regarding the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under Section 7 of the said Act.

SCHEDULE

1. Rates of wages for workmen in Pit No. 7.

2. Retrenchment compensation or gratuity to employees of the Kendwadh Power House who have been retrenched as a result of the closure of the Power House.

3. House rent allowance, family allowance, and dependants' rations at concessional rates for workers who are not allotted quarters and are residing in rented houses.

[No. LR.2(396)I.]

S.R.O. 541.—Whereas by an order of the Government of India in the Ministry of Labour No. S.R.O. 540, dated the 17th March 1953, an industrial dispute between the employers and workmen in relation to the South Bulliaree Kendwadh Colliery, has been referred to the Industrial Tribunal, Dhanbad for adjudication;

Now, therefore, in exercise of the powers conferred by sub-section (3) of section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government

hereby prohibits the continuance of the strike in existence in the said Colliery in connection with the said dispute.

[No. LR-2(396)II.]

P. S. EASWARAN, Under Secy.

New Delhi, the 16th March 1953

S.R.O. 542.—In exercise of the powers conferred by sub-section (1) of section 13 of the Employees' Provident Funds Act, 1952 (XIX of 1952), the Central Government hereby appoints Shri V. C. Chathu Menon, Superintendent, Development Department, Government of Madras, to be an Inspector for the whole of the State of Madras for the purposes of the said Act and of any Scheme made thereunder in relation to factories engaged in a controlled industry or in an industry connected with a mine or an oilfield, *vice* Shri G. V. Gopalakrishna Reddy.

[No. P.F.516(12).]

S.R.O. 543.—In exercise of the power conferred by sub-section (1) of section 13 of the Employees' Provident Funds Act, 1952 (XIX of 1952), the Central Government hereby appoints Shri S. N. Hardas, Retired Deputy Registrar of Co-operative Societies, Nagpur, to be an Inspector for the whole of the State of Madhya Pradesh for the purpose of the said Act and of any Scheme made thereunder in relation to factories engaged in a controlled industry or in an industry connected with a mine or an oilfield, *vice* Shri R. K. Mukherjee.

[No. P.F.516(49).]

TEJA SINGH SAHNI, Under Secy.